

Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

TING KRAY; SAMAUN SRIP; and SAP
KRAY,

Plaintiffs,

v.

THE CITY OF TACOMA; TACOMA POLICE
DEPARTMENT; PHILIP ARREOLA; and
JOHN DOE NOS. 1-25,

Defendants.

No. C97-5582BHS

MOTION TO LIFT STAY

Note on Motion Calendar: March 18, 2011

Plaintiffs Sap Kray and Ting Kray move this Court for an order lifting the stay entered on October 2, 1997 (Dkt. 17), reaffirmed on January 5, 1998 (Dkt. 25), partially lifted on June 30, 1999 (Dkt. 56), re-stayed on July 21, 1999 (Dkt. 62), reaffirmed on May 13, 2003 (Dkt. 72), and October 5, 2004 (Dkt. 80). A statistical termination of the case was entered on September 11, 2007 (Dkt. 85). Copies of these documents are attached hereto, for the Court's convenience, as Exhibits 1-7.

All criminal proceedings against Sap Kray have terminated. Certiorari was denied by the Supreme Court of the United States on October 18, 2010. A copy of its order is attached as Exhibit 8. The mandate of the Ninth Circuit Court of Appeals in Sap Kray's habeas appeal is attached as Exhibit 9.

MOTION TO LIFT STAY - 1

No. C97-5582BHS

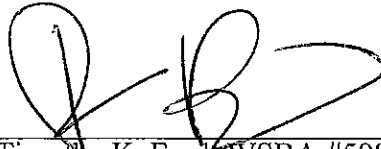
MACDONALD HOAGUE & BAYLESS
705 Second Avenue, Suite 1500
Seattle, Washington 98104
Tel 206.622.1604 Fax 206.343.3961

Undersigned counsel has determined that no other venues are presently available to vacate or obtain further review of plaintiff Sap Kray's criminal conviction. The basis for the stay heretofore entered has therefore ended and the stay should be lifted.

DATED this 3 day of March, 2011.

Respectfully submitted,

MacDONALD HOAGUE & BAYLESS

By 

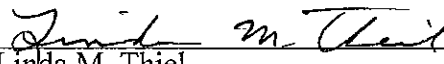
Timothy K. Ford, WSBA #5986
Attorneys for Plaintiffs

Certificate of Service

I hereby certify that on March 3, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the below listed attorneys electronically, as identified below:

Joseph Michael Diaz
Katrin E. Frank
John Francis Kennedy

jdiaz@dpearson.com, stoves@dpearson.com
kayf@mhb.com, maryk@mhb.com; sharonm@mhb.com
JFK@KennedyLawNorthwest.com,
jj@KennedyLawNorthwest.com



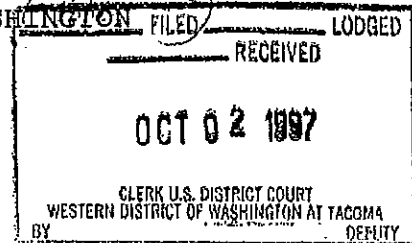
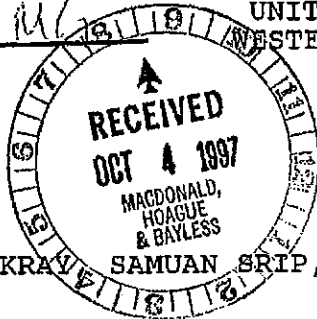
Linda M. Thiel
Legal Assistant to Timothy K. Ford

EXHIBIT 1

ENTERED
ON DOCKET

OCT 02 1997

By Deputy MACDONALD, HOAGUE & BAYLESS UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA



TING KRAY, SAMUAN SRIP, and SAP
KRAY,

Plaintiffs,

vs.

THE CITY OF TACOMA, et al.,

Defendants.

NO. C97-5582FDB

ORDER RE DEFENDANTS'
MOTION FOR ORDER
SHORTENING TIME ON
MOTION TO STAY CIVIL
PROCEEDINGS

This matter comes before this Court upon Defendants' Motion for an Order Shortening Time on Defendants' Motion for Stay of Civil Proceedings ("Motion for Stay"). Defendants move this Court for an Order Shortening Time on their Motion for Stay which is noted for October 10, 1997.

Local Rule 7(b)(4) states that a party's failure to respond to a motion "may be deemed by the court to be an admission that ... opposition to the motion ... is without merit." Plaintiffs have filed no opposition to Defendants' Motion to Shorten Time. Upon review of the record in this matter, the Court sees no reason why

ORDER - 1

1 Defendants' Motion to Shorten Time should not be granted.¹

2 It is within this Court's broad discretion and inherent power
3 to stay discovery. This Court is concerned about the nature and
4 scope of the discovery proceedings to the extent such discovery
5 might hinder an ongoing criminal investigation, particularly, in
6 light of the preliminary questions which have been raised by the
7 parties' pleadings, and the Defendants' concerns regarding the
8 pending criminal proceedings and the four (4) depositions which are
9 now scheduled from October 6, 1997 through October 10, 1997.

10 It is this Court's view that any further discovery proceedings
11 in this matter should be stayed until the Motion to Stay Civil
12 Proceedings is resolved. Therefore, the four (4) depositions of
13 Defendants' witnesses scheduled for October 6, 8, 9, and 10, 1997
14 and all discovery in this matter shall be stayed until the Motion
15 to Stay Civil Proceedings is resolved.

16 Accordingly, it is hereby

17 ORDERED:

18 (1) Defendants' Motion to Shorten Time on their Motion To
19 Stay Civil Proceedings is GRANTED; and

20 (2) The four (4) depositions of Defendants' witnesses
21 scheduled by the Plaintiffs for October 6, 8, 9, and 10, 1997 and
22 all discovery in this matter shall be STAYED until the Motion To
23 Stay Civil Proceedings is resolved; and

24 ORDER - 2

25

26 ¹ The Defendants are cautioned to review the Local Civil Rules
27 with more attentiveness, in light of their mistake in noting the
28 underlying Motion to Stay Civil Proceedings less than forty-eight (48)
hours after the date for determination of their Motion to Shorten
Time.

1 (3) The parties shall submit additional briefing with
2 particular attention to the undue burden and/or hardship that
3 discovery in the civil matter will have on the pending criminal
4 investigation by October 20, 1997. The parties will also enunciate
5 the earliest dates that the Plaintiffs may conduct discovery
6 without hindering the pending criminal investigation; and

7 (4) The Clerk of the Court shall renote Defendants' Motion To
8 Stay Civil Proceedings to Monday, October 20, 1997.

9

10

11 DATED this 1 day of October, 1997.

12

13

14

15

16 ORDER - 3

17

18

19

20

21

22

23

24

25

26

27

28


FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE

EXHIBIT 2

ENTERED
ON DOCKET

JAN 05 1998

By Deputy

| | |
|---|--------|
| FILED | LODGED |
| RECEIVED | |
| JAN - 5 1998 | |
| CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA | |

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TING KRAY, SAMUAN SRIP, and SAP
KRAY,

Plaintiffs,

vs.

THE CITY OF TACOMA, et al.,

Defendants.

NO. C97-5582FDB

ORDER RE DEFENDANTS'
MOTION TO STAY CIVIL
PROCEEDINGS

On December 22, 1997, this Court conducted a hearing regarding Defendants' Motion to Stay Civil Proceedings ("Motion"). Preliminary questions had been raised by the parties' pleadings, and Defendants had expressed concerns regarding the effect of civil discovery on the pending criminal proceedings surrounding Sap Kray and his criminal trial scheduled for November, 1998. The hearing was conducted due to this Court's concerns about the nature and scope of the discovery proceedings to the extent such discovery would hinder an ongoing criminal investigation.

ORDER - 1

1 It was this Court's belief that, in their briefings to this
2 Court, the Defendants had not made an adequate and specific factual
3 showing of undue burden and/or hardship that discovery in the civil
4 matter would have on the pending criminal investigation and trial
5 in order to support their Motion To Stay Civil Proceedings.

6 After hearing of oral argument, and review of the records and
7 files in this matter, this Court sees no reason why Defendants'
8 Motion should not be granted. However, it is this Court's view
9 that the arguments Plaintiffs presented concerning the preservation
10 of evidence bears some consideration and is of some concern to this
11 Court. Plaintiffs specifically designated recordings, records and
12 tapes taken by the Auburn Police Department and law enforcement at
13 Emerald Downs, and the radio telecommunications of the Tacoma
14 Police Department.

15 Defense Counsel Joseph Diaz, Assistant City Attorney, on
16 behalf of Defendants, has attested that all evidence in this matter
17 has been preserved and will be preserved until this case has
18 concluded. Based upon Defense Counsel's express representations to
19 this Court, the Court expects the aforementioned records and
20 recordings to be preserved. Failure to preserve any evidence
21 related to this matter will subject both Defense Counsel and
22 Defendants to the harshest sanctions.

23 Accordingly, it is hereby

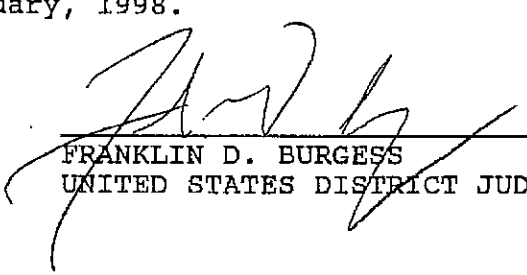
24 ORDERED:

25 (1) Defendants' Motion for Stay of Civil Proceedings is
26 GRANTED pending the disposition of the criminal trial scheduled for
27 November, 1998; and

28 ORDER - 2

1 (2) Joint Status Reports will be filed by the parties with
2 this Court on the following dates: Friday, April 24, 1998; Friday,
3 August 28, 1998; and Friday, December 18, 1998. Plaintiffs' Counsel
4 will address any evidentiary concerns which may have arisen in this
5 matter. Defendants shall address, specifically, the status and
6 progress of the criminal investigation, criminal proceedings and/or
7 trial.

8
9 DATED this 5 day of January, 1998.

10
11 
12 FRANKLIN D. BURGESS
13 UNITED STATES DISTRICT JUDGE
14

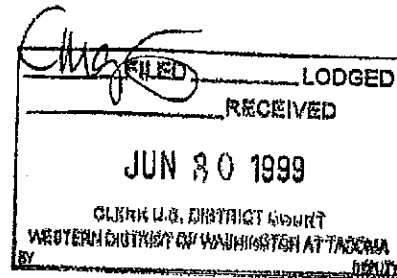
15 ORDER - 2
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 3

ENTERED
ON DOCKET

JUN 30 1999

BY DEPUTY



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TING KRAY, SAMUAN SRIP, AND SAP
KRAY,

Plaintiffs,

v.

THE CITY OF TACOMA, et al.,

Defendants.

Case No. C97-5582FDB

ORDER ON DEFENDANTS'
MOTION TO PARTIALLY LIFT
STAY

This matter comes before the court upon defendants' "Motion to Partially Lift Stay in Order to Hear Defendants' Alternative Motions for Summary Judgment" ("Motion to Partially Lift Stay"). (Dkt. No. 45.) Plaintiffs Sap Kray and Ting Kray have filed opposition to defendants' Motion to Partially Lift Stay and ask this court to completely lift the stay.

On January 5, 1998, after hearing oral argument, this court granted defendants' Motion for Stay of Civil Proceedings *pending disposition* of the state court's criminal trial against the state court defendant Sap Kray. "On March 10, 1999 ... Sap Kray was convicted of aggravated first degree murder and of second degree assault, both committed with firearms, in connection with the events" of August 28, 1997. (Defs.['] Mot. to Partially Lift Stay at 2.) Defendants move this court to partially lift the stay solely to hear its Alternative Motions for Summary Judgment. Defendant argues that this court should only partially lift the stay because Sap Kray has filed a notice of appeal regarding his conviction with the Washington State Court of Appeals. (*See id.*) It is defendants'

ORDER - 1

56

1 position that the outcome of Sap Kray's criminal trial "has eliminated issues before the Court ...
 2 entitling defendants to dismissal of this and/or continued stay of proceedings pending the outcome
 3 of Sap Kray's criminal appeal proceedings." (Defs.['] Mot. to Partially Lift Stay at 3.) Defendants
 4 attempt to support their arguments through their reliance on the United States Supreme Court's
 5 decision in *Heck v. Humphrey*, 512 U.S. 477, 114 S.Ct. 2364, 129 L.Ed.2d 383 (1994).

6 On September 17, 1997, pursuant to 42 U.S.C. section 1983, the plaintiffs Ting Kray,
 7 Samuan Srip, and Sap Kray filed their Complaint for Violation of Civil Rights and Demand for Jury
 8 Trial. (Dkt. No. 1.) Unlike *Heck v. Humphrey*, this civil case was not filed by a prisoner to
 9 challenge his criminal conviction by a state court, or the unlawfulness of his confinement. *See Heck*
 10 *v. Humphrey*, 512 U.S. at 481. Two of the three plaintiffs in this matter were not a party to the state
 11 court criminal proceedings against Sap Kray. Moreover, all of the plaintiffs filed this action almost
 12 contemporaneously with the state court criminal proceedings.

13 Although this court is not fully persuaded by defendants' arguments, it believes the better
 14 course is to partially lift the stay to consider defendants' dispositive motions.

15
 16 Accordingly, it is hereby

17 ORDERED:

18 (1) Defendants' "Motion to Partially Lift Stay in Order to Hear Defendants' Alternative
 19 Motions for Summary Judgment" (Dkt. No. 45) is GRANTED;

20 a. the **STAY SHALL ONLY BE PARTIALLY LIFTED** to hear defendants' "Alternative
 21 Motions for Summary Judgment (Dkt. #46);

22 b. the Clerk shall re-note Defendants' "Alternative Motions for Summary Judgment" (Dkt.
 23 46) for Friday, July 16, 1999;

24 i. Plaintiffs shall file their Response by close of business Friday, July 9, 1999;

25 ii. Defendants shall file their Reply, if any, by close of business, Wednesday, July

26 ORDER - 2


1 14, 1999.

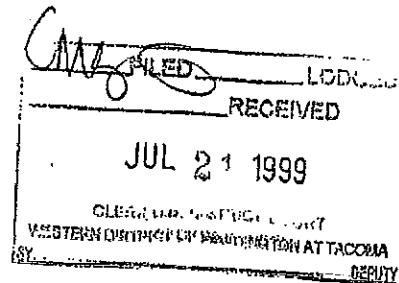
2
3 DATED this 30 day of June, 1999.

4
5 
6 FRANKLIN D. BURGESS
7 UNITED STATES DISTRICT JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

ORDER - 3

EXHIBIT 4

ENTERED
ON DOCKET
JUL 21 1999
BY DEPUTY 



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA



TING KRAY, SAMUAN SRIP, AND SAP
KRAY,

Plaintiffs,

v.

THE CITY OF TACOMA, et al.,

Defendants.

Case No. C97-5582FDB

ORDER CONTINUING STAY OF
PROCEEDINGS

On June 30, 1999, this court issued its Order on Defendants' Motion to Partially Lift Stay (Dkt. No. 56). In that Order, this court granted defendants' Motion to Partially Lift Stay in order to consider defendants' "Alternative Motions for Summary Judgment (Dkt. No. 46). It is defendants' position that the outcome of Sap Kray's criminal trial "has eliminated issues before the Court ... entitling defendants to dismissal of this [case] and/or continued stay of [these] proceedings pending the outcome of Sap Kray's criminal appeal proceedings." (Defs.['] Mot. to Partially Lift Stay at 3.) The defendants argue that their Alternative Motions for Summary Judgment are based on "[c]ollateral [e]stopper," or in the alternative, the defendants' rely on the United States Supreme Court's decision in *Heck v. Humphrey*, 512 U.S. 477, 114 S.Ct. 2364, 129 L.Ed.2d 383 (1994). (Defs.['] Mem. in Supp. of Alt. Mot. for Summ. J. at 1.)

This court has reviewed the pleadings filed in support of and in opposition to the defendants' Alternative Motions for Summary Judgment and the file herein. It is apparent to this court that

ORDER - 1

62

1 there are specific factual and legal issues in this case, applicable to *all* of the parties to this action,
2 which this court cannot isolate without allowing some degree of discovery. Moreover, the factual
3 and legal issues which have been presented are inextricably intertwined with the state court
4 appellate proceedings. Having reviewed the briefs of the parties, this court is not persuaded that
5 there are severable issues which can be resolved without violating federal and state comity. Finally,
6 as the matter now stands, the facts are not sufficiently defined to warrant defendants being granted
7 judgment as a matter of law.

8
9 Accordingly, it is hereby

10 ORDERED:

11 (1) The defendants' Alternative Motions for Summary Judgment (Dkt. No.46) are DENIED;

12 and

13 (2) This matter is STAYED pending resolution of all state court appellate proceedings.
14

15 DATED this 21 day of July, 1999.

16 
17 FRANKLIN D. BURGESS
18 UNITED STATES DISTRICT JUDGE
19
20
21
22
23
24
25

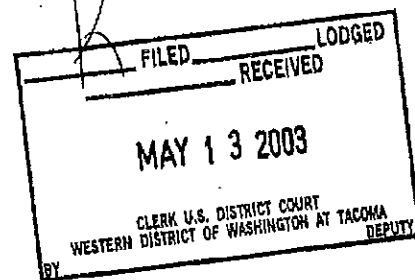
26 ORDER - 2

EXHIBIT 5

RECEIVED

MAY 15 2003

MACDONALD, HOAGUE & BAYLESS



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TING KRAY; SAMAUN SRIP; and SAP
KRAY,

C97-5582FDB

Plaintiffs,

MINUTE ORDER

vs

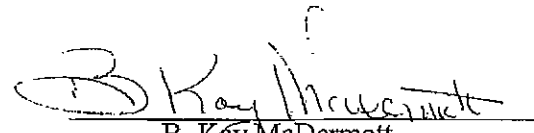
THE CITY OF TACOMA; TACOMA POLICE
DEPARTMENT; PHILIP ARREOLA; and
JOHN DOES NOS. 1-25,

Defendants.

NOW, on this 13th day of May 2003, the Court directs the Clerk to enter the following Minute Order:

Pursuant to the information contained in the Joint Status Report filed on May 9, 2003, the Stay previously imposed shall remain in place pending final resolution of all State court appellate proceedings. Counsel shall notify this Court when this matter is ready to proceed.

The foregoing Minute Order entered at the direction of the Honorable **FRANKLIN D. BURGESS**, United States District Judge.


B. Kay McDermott
Courtroom Deputy



CV 97-05582 #00000072

72

km

United States District Court
for the
Western District of Washington
May 13, 2003

* * MAILING CERTIFICATE OF CLERK * *

Re: 3:97-cv-05582

True and correct copies of the attached were mailed by the clerk to the following:

Katrin E Frank, Esq.
MACDONALD, HOAGUE & BAYLESS
STE 1500
705 SECOND AVE
SEATTLE, WA 98104-1745
FAX 343-3961

Timothy K. Ford, Esq.
MACDONALD, HOAGUE & BAYLESS
STE 1500
705 SECOND AVE
SEATTLE, WA 98104-1745
206-622-1604

Joseph Michael Diaz, Esq.
DAVIES PEARSON PC
PO BOX 1657
TACOMA, WA 98401
FAX 1-253-572-3052

John Francis Kennedy, Esq.
3419 HARBORVIEW DR
GIG HARBOR, WA 98332-2127
FAX 1-253-853-6479

Case: 3:97-cv-05582

Timothy K. Ford, Esq.
MACDONALD, HOAGUE & BAYLESS
STE 1500
705 SECOND AVE
SEATTLE, WA 98104-1745

EXHIBIT 6

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TING KRAY; SAMAUN SRIP; and SAP
KRAY,

Plaintiff,

v.

THE CITY OF TACOMA; THE TACOMA
POLICE DEPARTMENT; PHILIP
ARREOLA; and JOHN DOE NOS. 1-- 25,

Defendants.

Case No. C97-5582FDB

ORDER CONTINUING STAY

This is a civil rights case brought by Ting Kray, his brother Sap Kray, and his brother's ex-wife Samaun Srip against the City of Tacoma and its Police Department and former Police Chief. Shortly after it was filed, Pierce County brought criminal charges against Sap Kray arising out of the same incident. This matter was stayed during the pendency of the criminal charges. After Sap Kray was convicted of aggravated first degree murder, This matter was again stayed by Order dated July 21, 1999:

... the factual and legal issues which have been presented are inextricably intertwined with the state court appellate proceedings. Having reviewed the briefs of the parties, this court is not persuaded that there are severable issues which can be resolved without violating federal and state comity. ... This matter is STAYED pending resolution of all state court appellate proceedings.

On May 13, 2003, the Court entered a minute order continuing the stay and requiring the parties to notify the Court "when this matter is ready to proceed."

The Washington State Court of Appeals upheld Sam Kray's conviction on December 6, 2002, his petition for review was denied by the Supreme Court of Washington, and certiorari from that decision was denied by the Supreme Court of the United States on March 29, 2004.

ORDER - 1

1 Defendants contend that since the parties agree that Plaintiff has potential post-conviction
 2 remedies available to him via state and federal collateral attacks upon his conviction until the
 3 expiration of the time period for bringing such actions – here March 29, 2005 – and because
 4 Plaintiff's counsel has indicated in the Joint Status Report (p. 3, l. 10) that his client intends to
 5 pursue a state or federal collateral attack but has not yet done so, that the stay should continue.
 6 Defendants argue that the same considerations that underpinned the court's original imposition and
 7 subsequent continuation of the stay pending the expiration of the direct appeal process apply with
 8 equal force as long as Plaintiff maintains the intention to pursue habeas corpus actions. Moreover,
 9 Defendant argues that the discovery process in this case would be compromised by the collateral
 10 attacks and assertion of Fifth Amendment rights. Sap Kray's counsel has stated:

11 Through Counsel, Sap Kray has denied having any such intent and acknowledged that
 12 successful prosecution of this case may require him to elect between a waiver of his
 13 Fifth Amendment rights and dismissal of some or all of his civil claims. ... There is
 therefore no reason to believe that Sap Kray will fail to comply with his discovery
 obligations.

14 (Plaintiffs' Memo. pp. 2-3) Defendants argue that it would be unjust to allow Plaintiff the benefit of
 15 lifting the stay when the Defendants would be hampered by Plaintiff invoking his Fifth Amendment
 16 rights during the court of his collateral attacks. Defendants cite *Heck v. Humphrey*, 512 U.S. 477,
 17 487 n. 8 (1994) where the Court stated:

18 For example, if a state criminal Defendant brings a federal civil-rights lawsuit during
 19 the pendency of his criminal trial, appeal, or state habeas action, abstention may be an
 appropriate response to the parallel court proceedings.

20 In response, Plaintiffs affirm that Sap Kray intends to pursue state and federal postconviction
 21 remedies, which remain open to him until March 29, 2005, but that Plaintiffs also which to proceed
 22 with the civil claims in this case. Plaintiffs contend that the belief that Sap Kray will resist discovery
 23 is imaginary and there is no reason to believe that he will fail to comply with his discovery
 24 obligations. Also, Plaintiffs contend that a stay is unnecessary under *Heck* because (1) the validity of
 25 Sap Kray's criminal convictions are not necessarily determinative of any of his own claims and they

26 ORDER - 2

1 are not determinative of the other plaintiffs' claims, and (2) to the extent that there is overlap of
 2 issues in the criminal and civil cases, this does not militate in favor of a stay because under *Heck* such
 3 stays are error:

4 We reemphasize that § 1983 contains no judicially imposed exhaustion requirement,
 5 *Heck*, 512 U.S. at 481, 483, 114 S.Ct. At 2369, 2370-71; absent some other bar to
 6 the suit, a claim either is cognizable under § 1983 and should immediately go forward,
 7 or is not cognizable and should be dismissed.

8 *Edwards v. Balisok*, 520 U.S. 641, 649 (1997). Thus, Plaintiffs maintain that their claims remain
 9 cognizable despite the decisions in *Sap Kray's* case.

10 Nevertheless, "Sap Kray maintains that his conviction and its affirmance were
 11 unconstitutional" (Pl. Memo. Opp. p.2) This Court has already concluded that "... the factual and
 12 legal issues which have been presented are inextricably intertwined with the state court appellate
 13 proceedings. Having reviewed the briefs of the parties, this court is not persuaded that there are
 14 severable issues which can be resolved without violating federal and state comity." That statement
 15 still applies. A continuing stay pending the expiration of the period for Plaintiff Sap Kray to exercise
 16 his right to seek state or federal habeas relief of his criminal conviction or, if exercised, exhaustion of
 17 Plaintiff Sap Kray's state and federal habeas remedies regarding his criminal conviction is still
 18 appropriate.

19 ACCORDINGLY, IT IS ORDERED: The previously imposed stay of proceedings in this
 20 matter (Dkt. # 35, # 62), as requested by Defendants (See Brief Dkt. # 77 pursuant to Order Dkt. #
 21 75) is continued pending the expiration of the period for Plaintiff Sap Kray to exercise his right to
 22 seek state or federal habeas relief of his criminal conviction or, if exercised, exhaustion of Plaintiff
 23 Sap Kray's state and federal habeas remedies regarding his criminal conviction.

24 DATED this 5th day of October, 2004.

25 S/ Franklin D. Burgess
 26 FRANKLIN D. BURGESS
 UNITED STATES DISTRICT JUDGE

ORDER - 3

EXHIBIT 7

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TING KRAY; SAMAUN SRIP; and SAP
KRAY,

Plaintiffs,

v.

THE CITY OF TACOMA; THE TACOMA
POLICE DEPARTMENT; PHILIP
ARREOLA; and JOHN DOE NOS. 1-25,

Defendants.

CASE NO. C97-5582BHS

ORDER DIRECTING CLERK OF
COURT TO ENTER A
STATISTICAL TERMINATION

Pursuant to the Order Continuing Stay (Dkt. 80), it appears that this matter will remain in an inactive status for a substantial period of time. The Court hereby orders the Clerk to enter a statistical termination of this case.

Counsel should note that this termination is intended solely to remove this matter from the Court's docket of active pending cases in order to alleviate congestion of the Court's docket. At such time as the parties deem this litigation to be in a posture to proceed, the parties shall file a motion to reopen. The motion to reopen shall be filed in the above-referenced cause number; counsel need not file a new case or pay additional filing fees. For purposes of statutes of limitations, the Court deems the filing date of this litigation to be and to remain the original filing date of the above-entitled case.

All pending motions, deadlines and hearings, if any, are hereby stricken as moot.

IT IS SO ORDERED this 11th day of September, 2007.



BENJAMIN H. SETTLE
United States District Judge

ORDER

EXHIBIT 8

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

October 18, 2010

William K. Suter
Clerk of the Court
(202) 479-3011

Mr. Timothy K. Ford
MacDonald Hoague & Bayless
1500 Hoge Building
705 Second Avenue
Seattle, WA 98104-1745

OCT 21 2010
MACDONALD HOAGUE & BAYLESS

Re: Sap Kray
v. Patrick Glebe, Superintendent, Stafford Creek Corrections
Center, et al.
No. 10-6285

Dear Mr. Ford:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,



William K. Suter, Clerk

EXHIBIT 9

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 01 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

SAP KRAY,

Petitioner - Appellant,

v.

BELINDA STEWART, Superintendent
of Stafford Creek Correctional Center
and ROB MCKENNA, Attorney General
of the State of Washington,

Respondents - Appellees.

No. 08-35711

D.C. No. 3:06-cv-05521-RBL
U.S. District Court for Western
Washington, Tacoma

MANDATE

The judgment of this Court, entered April 08, 2010, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

Molly C. Dwyer
Clerk of Court

Rhonda Roberts
Deputy Clerk